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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/286,791	04/06/1999	SEIICHI OHTA	990216/LH	5436

1933 7590 08/04/2004

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC  
767 THIRD AVENUE  
25TH FLOOR  
NEW YORK, NY 10017-2023

EXAMINER

NGUYEN, LUONG TRUNG

ART UNIT PAPER NUMBER

2612

DATE MAILED: 08/04/2004

17

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/286,791

**Applicant(s)**

OHTA, SEIICHI

**Examiner**

LUONG T NGUYEN

**Art Unit**

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5, 10, 11, 13 and 14 is/are allowed.
- 6) ☒ Claim(s) 6 and 12 is/are rejected.
- 7) ☒ Claim(s) 7-9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 6 and 12, filed on 5/6/2004, have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

2. Claim 5 is objected to because of the following informalities:

Claim 5 (line 23), change “ “not proper, wherein ” to --“not proper”, wherein--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 6, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Okino et al. (US 5,019,911).

Regarding claim 6, Okino et al. disclose an image pickup device equipped with a light emitter (flash emitting portion 12, figure 1), comprising an image pickup unit (CCD 5, figure 1, column 2, lines 50-68); a memory (recording portion 7, figure 1, column 2, lines 50-68); a determining section which makes a determination of whether the electric signal produced by the

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image pickup unit has a proper brightness, in a case where the image is picked up by the image pickup unit with light emitted from the light emitter (measure light amount at step 4, figure 3, column 4, lines 25-53); a controller which controls the memory to store the image data corresponding to the electric signal used by the determining section for the determination with respect to the electric signal which is produced by the image pickup unit by converting the image picked up by the image pickup unit with the light emitted from the light emitter, only if a result of the determination of the determining section is “proper”, wherein the light emitter is controlled by the controller to emit light in synchronism with an image pickup operation of the image pickup unit (control circuit 10 determines the light amount emitted by flash emitting portion 12, if the light amount is sufficient (proper), the image data is recorded at step 13 via steps S4, S5, S8, S10, S12, S13, figure 3, column 4, line 25 – column 5, line 8); an auto-focusing unit for driving an optical system to focus on an object (figure 1, column 3, lines 19-25).

Regarding claim 12, Okino et al. disclose a shutter button, wherein the controller controls the image pickup unit to execute the image pickup operation in response to an operation of the shutter button by the user (column 4, lines 25-40).

***Allowable Subject Matter***

5. Claims 1-5, 10-11, 13-14 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

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Regarding claim 1, the prior art of the record fails to show or fairly suggest an image pickup device equipped with a light emitter which determines a light quantity of a second light emission by the light emitter based on an electric signal into which an image picked up with a first light emission by the light emitter is converted, comprising a controller which controls the memory to store the image data corresponding to the electric signal used by the determining section for making the determination, and which inhibits the second light emission by the light emitter, only if a result of the determination of the determining section is "proper" with respect to the electric signal which is produced by the image pickup unit by converting the image picked up by the image pickup unit with the first light emission by the light emitter.

Claims 2-4, 11 are allowable for the reason given respect to claim 1.

Regarding claim 5, the prior art of the record fails to show or fairly suggest an image pickup device equipped with a stroboscopic light emitter, comprising a controller in the CPU which controls the memory to store the image data corresponding to the electric signal used by the determining section for the determination if a result of the determination of the determining section is "proper" with respect to the electric signal which is produced by the image pickup unit by converting the image picked up thereby with the light emitted from the stroboscopic light emitter.

Regarding claim 10, the prior art of the record fails to show or fairly suggest an image pickup method using a light emitter, comprising storing image data corresponding to an electric signal subjected to determination of the brightness of the state of the picked up image, if a result of the determination in the determining step is "at or above a predetermined value" with respect to the brightness of the state of the image picked up by the first image pickup operation.

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Regarding claim 13, the prior art of the record fails to show or fairly suggest an image pickup device equipped with a light emitter, comprising a determining section which makes a determination of whether an electric signal which is produced by a first image pickup operation and conversion of the image pickup unit has a proper brightness, wherein the first image pickup operation of the image pickup unit is performed at a same time as the light emitter emits the light in timing with the first image pickup timing of the image pickup unit.

Claim 14 is allowable for the reason given respect to claim 13.

6. Claims 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUONG T NGUYEN whose telephone number is (703) 308-9297. The examiner can normally be reached on 7:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (703) 305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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7/24/04

  
AUNG MOE  
PRIMARY EXAMINER